

MDR Tracking Number: M5-04-3917-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on July 15, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The aquatic therapy and office visit (99213) from 12-22-03 through 02-16-04 **were found** to be medically necessary. The aquatic therapy from 02-17-04 through 03-02-04 **was not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 17th day of September 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 12-22-03 through 02-16-04 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 17th day of September 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/pr

Amended Report

09/02/2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3917-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was injured on ___ while working for ___. He was driving a forklift when he crashed injuring his neck, back, hip, left leg and right foot. Approximately 75 pages of records were obtained during records acquisition. Including but not limited to daily notes from Dr. A, DC of 10/21/03 through 12/2/03, RME report Dr. O, MD with FCE, position statement letter dated 8/12/04 from Syzgy Assoc., 9/9/03 modality review Dr. S, DC, aquatics evaluations from

Mockingbird Rehab, aquatics notes from Mockingbird Rehab and functional re-evaluations dated 12/18/03, 1/19/03 and 3/2/03. The patient was placed in land-based therapy; however, he didn't respond to the expectations of his treating doctor. At this point he was placed in an aquatic therapy program. He was placed in this program from 12/18/03 through 3/2/04.

DISPUTED SERVICES

Disputed services include an aquatic therapy program and an office visit (99213) from 12/22/03 through 3/2/04.

DECISION

The reviewer disagrees with the previous adverse determination regarding the following dates of service 12/22/03 through 2/16/04.

The reviewer agrees with the previous adverse determination regarding all other dates under consideration.

BASIS FOR THE DECISION

The reviewer notes that an aquatic therapy program is generally not used more than eight weeks in an uncomplicated case. The patient should have been transferred into a land-based program at this point. The date of 2/16/04 was chosen as the end date of medically necessary care based upon the FCE by Dr. O, MD. The FCE and accessory testing indicated that the patient was able to perform at a medium duty PDL. The reviewer notes the Guidelines from the Council on Chiropractic Physiological Therapeutics and Rehabilitation indicate an eight-week program is the maximum allowable program without extenuating circumstances or complicating factors. The reviewer indicates the office visit of 1/19/04 is medically necessary to ensure the provider is able to monitor and direct patient care. The approved treatment falls within normal limits according to the Medical Disability Advisor by Dr. R, MD.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,